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THE COLUMBIA LAW REVIEW. — It is with pleasure that we greet the *Columbia Law Review*, published by students of the Law School of Columbia University. The editors are to be congratulated on the excellence of their first issue; from such a beginning a prosperous future seems assured. To this latest arrival the HARVARD LAW REVIEW extends its best wishes.

MUNICIPAL LIABILITY FOR THE TORTS OF FIRE-BOATS. — After a reargument ordered in the spring of 1899, the case of *Workman* v. *New York* has finally been decided by the Supreme Court of the United States, the court being as nearly as possible evenly divided. 21 Sup. Ct. Rep. 212. The single question at issue was whether the city of New York was liable, in a proceeding in admiralty *in personam*, for an injury to another vessel caused by the negligence of those in charge of a city fire-boat on her way to a fire. The fire-boat was trying to reach a fire at the head of the slip next to pier 48, East River, and through mismanagement in entering the slip struck the barkentine, Linda Park, moored at the outer end of the pier. The decision reached is that the city was liable, and the applicability is denied in admiralty of that common-law rule which regards the service of a fire department as of a governmental nature, such as to exempt cities from liability for the negligent acts of its servants engaged in this service. The reason given by Mr. Justice White, in the majority opinion, for not applying the common-law doctrine is "that in the maritime law the public nature of the service upon which a vessel is engaged at the time of the commission of a maritime tort affords no immunity from liability in a court of admiralty, where the court has juris-

diction." This may be admitted; but Mr. Justice Gray and the dissenting judges seem to be right in showing that this is not conclusive. All that can be meant by the remark quoted, if it is a true summary of the authorities, is that the owner of a private vessel is not exempt from liability because she was engaged at the moment of her wrongdoing in the useful occupation of putting out fires and the like. *The Blackwall*, 10 Wall. 1; *The Clarita and The Clara*, 23 Wall. 1. These decisions do not touch the question of the rule of *respondeat superior* in regard to governmental agents of municipal corporations. Why should not that rule be applied in admiralty? The personal liability of the owner of an offending vessel, based upon his ownership, is not different from the responsibility under the rule of agency based upon the relation of master and servant. This is admitted by Mr. Justice White. If, then, the court of admiralty is enforcing the general law of agency, it is not easy to see how that court can consent to apply part of that law and yet refuse to apply the whole of it. The fire-boat personified was the servant of the city as well as were the firemen; the liability of the city for their negligence should not vary according as the plaintiff chose a court of common law or a court of admiralty.

One other point should not pass unnoticed. In the last paragraph of the majority opinion the court carefully guards itself from admitting the general rule of common law which exempts a city from responsibility for the torts of its fire department. In the courts of the states, however, from Massachusetts to Washington, *Hafford* v. *New Bedford*, 16 Gray, 297; *Lawson* v. *Seattle*, 6 Wash. 184, this rule is fixed, if there is anything fixed in the law of municipal corporations. The doubt suggested by the court must be deemed unfortunate because of the unsettling effect which it must have upon actions brought in the federal courts. It also raises a grave question whether this matter is not one of local law, in which the law of the respective states should be followed by the federal courts. If it is not, the circuit judges are left in an unenviable position.

RIPARIAN RIGHTS UNDER THE FIFTH AMENDMENT. — A question of considerable importance as to the rights of those who own land abutting on navigable waters has lately been passed upon by the Supreme Court of the United States. *Scranton* v. *Wheeler*, 21 Sup. Ct. Rep. 48. The federal government, for the sole purpose of facilitating navigation in the St. Mary's River, built a pier in the submerged land of the river parallel to the shore and opposite the riparian property of the plaintiff. This pier virtually destroyed all means of access from the river to the plaintiff's riparian land, for between the pier and the shore there was left a waterway only five feet in depth. The plaintiff claimed the right to land his freight upon this government pier, and upon being refused brought an action of ejectment; the question therefore arose as to whether the destruction of the means of access from the plaintiff's land to navigable water was such a taking of private property for public use without just compensation as was forbidden by the Fifth Amendment. The court held that the riparian owner's private right of access must give place to the right of the government to improve the navigation of public waters, and thus that there was not any taking of private property for public use, but only a consequential injury to a right which must be enjoyed in subjection to the rights of the public. The dissenting opinion was based on